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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 138 of 2002

PETITIONER : Mahaveer, S/o Jankidas Vaishnav R/o:
Village:Malni, Tahsil: Sakti, Distt. : Janjgir-
Champa (Chhattisgarh)

VERSUS

RESPONDENTS : 1. The State of Chhattisgarh, through Collector,
Janjgir-Champa (Chhattisgarh).
2. The Board of Revenue, Madhya Pradesh
Gwalior.
3. Smt. Rukmani Devi W/o Ramlal Chouhan,
aged about 45 years, Kotwar, Gram: Malni,
Tahsil: Sakti, Distt.: Janjgir-Champa,
(Chhattisgarh)

**WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION
OF INDIA.**

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Prafull Bharat, Advocate for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State/respondent
No.1.

ORDER

(Passed on 27th day of April, 2007)

1. The Naib Tahsildar, Jaijaipur in Revenue Case No. 1/A-56/95-96, removed the respondent No. 3 from the post of Kotwar on the ground that the respondent No. 3 remained absent unauthorizedly. She continued to remain in other village Gram Malni and in her absence, one Reda Ram performed the job of Kotwar. After having conducted investigation/enquiry, the respondent No. 3 was removed from the post of Kotwar in exercise of its power under section 230 of the MP/CG Land Revenue Code, 1959.

(20)

2. In an appeal, the Sub Divisional Officer, Sakti allowed the appeal holding that no opportunity of hearing was given to the respondent No. 3, therefore, the order was bad, not in accordance with law. Thus, the order dated 20.11.96 passed by the Naib Tahsildar was set aside by the Sub Divisional Officer in its order dated 22.09.1997 (Annexure P/3).
3. The Additional Commissioner, in appeal, filed by the petitioner, against the order dated 22.09.1997, passed by the Sub Divisional Officer, Sakti, allowed the appeal holding that the order passed by the Naib Tahsildar removing the respondent No. 3 from the post of Kotwar was in accordance with law and the order passed by the Sub Divisional Officer was bad and the same was quashed. Being aggrieved by the order dated 29.08.2000 passed by the Additional Commissioner, Bilaspur Division, Bilaspur, the respondent No. 3 preferred a revision petition before the Board of Revenue, on the ground that the appeal filed by the petitioner was not maintainable as the petitioner was not a party to the appeal before the Sub Divisional Officer.
4. The Board of Revenue came to the conclusion that the removal and appointment of Kotwar is between the Government and the concerned person and a third party who was not a party to the proceedings has no right to prefer an appeal against the order passed by the Sub Divisional Officer. Accordingly, the order dated 29.08.2000 passed by the Additional Commissioner was set aside and the order dated 22.09.1997 passed by the Sub Divisional Officer, Sakti was confirmed.
5. I have gone through the pleadings and provisions of section 230 of the M.P/C.G. Land Revenue Code, 1959, which provides for appointment of Kotwar. Rule 5 of the Rules Regarding Appointment, Punishment and Removal of Kotwars and Their Duties, reads as under:

"5(1) The appointing authority may fine, suspend or dismiss a Kotwar for,-

(i) being of bad character, actually participating in any kind of undesirable activities or acting in any manner which, in the opinion of the appointing authority, is not in public interest;

(ii) Willful breach of rules:

Provided that the amount of fine imposed at any one time shall not exceed Rs. 5.

(2) Action should be taken on reports made by the Police against Kotwars and result thereof be intimated to the police forthwith."

6. On bare perusal of the provisions of law as stated above, there is no infirmity or illegality in the impugned order passed by the Board of Revenue. Hence, no interference with the impugned order is warranted.
7. It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.
8. Thus, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge